

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 218

Introduced by Cornett, 45; Heidemann, 1.

Read first time January 13, 2009

Committee: Revenue

A BILL

1 FOR AN ACT relating to state aid; to amend sections 13-518,
2 47-120, 71-5326, 77-27,136, 77-27,139, 81-15,158, 83-380,
3 and 83-4,133, Reissue Revised Statutes of Nebraska,
4 and sections 77-27,137.01 and 77-27,137.02, Revised
5 Statutes Cumulative Supplement, 2008; to change and
6 eliminate provisions relating to aid to various political
7 subdivisions; to change and eliminate provisions relating
8 to jail reimbursement; to harmonize provisions; to
9 provide an operative date; to repeal the original
10 sections; to outright repeal sections 47-119, 47-119.01,
11 47-121, 47-121.01, 77-27,137, and 77-3618, Reissue
12 Revised Statutes of Nebraska; and to declare an
13 emergency.

14 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-518, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 13-518 For purposes of sections 13-518 to 13-522:

4 (1) Allowable growth means (a) for governmental units
5 other than community colleges, the percentage increase in taxable
6 valuation in excess of the base limitation established under
7 section 77-3446, if any, due to improvements to real property as
8 a result of new construction, additions to existing buildings,
9 any improvements to real property which increase the value of
10 such property, and any increase in valuation due to annexation
11 and any personal property valuation over the prior year and (b)
12 for community colleges, (i) for fiscal years prior to fiscal year
13 2003-04 and after fiscal year 2004-05 until fiscal year 2007-08,
14 the percentage increase in excess of the base limitation, if
15 any, in full-time equivalent students from the second year to
16 the first year preceding the year for which the budget is being
17 determined, (ii) for fiscal year 2003-04 and fiscal year 2004-05,
18 the percentage increase in full-time equivalent students from the
19 second year to the first year preceding the year for which the
20 budget is being determined, and (iii) for fiscal year 2007-08 and
21 each fiscal year thereafter, community college areas may exceed the
22 base limitation to equal base revenue need calculated pursuant to
23 section 85-2223;

24 (2) Capital improvements means (a) acquisition of real
25 property or (b) acquisition, construction, or extension of any

1 improvements on real property;

2 (3) Governing body has the same meaning as in section
3 13-503;

4 (4) Governmental unit means every political subdivision
5 which has authority to levy a property tax or authority to
6 request levy authority under section 77-3443 except sanitary and
7 improvement districts which have been in existence for five years
8 or less and school districts;

9 (5) Qualified sinking fund means a fund or funds
10 maintained separately from the general fund to pay for acquisition
11 or replacement of tangible personal property with a useful life of
12 five years or more which is to be undertaken in the future but
13 is to be paid for in part or in total in advance using periodic
14 payments into the fund. The term includes sinking funds under
15 subdivision (13) of section 35-508 for firefighting and rescue
16 equipment or apparatus;

17 (6) Restricted funds means (a) property tax, excluding
18 any amounts refunded to taxpayers, (b) payments in lieu of property
19 taxes, (c) local option sales taxes, (d) motor vehicle taxes, (e)
20 state aid, (f) transfers of surpluses from any user fee, permit
21 fee, or regulatory fee if the fee surplus is transferred to fund a
22 service or function not directly related to the fee and the costs
23 of the activity funded from the fee, (g) any funds excluded from
24 restricted funds for the prior year because they were budgeted for
25 capital improvements but which were not spent and are not expected

1 to be spent for capital improvements, (h) the tax provided in
2 sections 77-27,223 to 77-27,227 beginning in the second fiscal year
3 in which the county will receive a full year of receipts, and (i)
4 any excess tax collections returned to the county under section
5 77-1776; and

6 (7) State aid means:

7 (a) For all governmental units, state aid paid pursuant
8 to sections 60-3,202 and 77-3523;

9 (b) For municipalities, state aid to municipalities
10 paid pursuant to sections 18-2605, 39-2501 to 39-2520, 60-3,190,
11 77-27,136, and 77-27,139.04 and insurance premium tax paid to
12 municipalities;

13 (c) For counties, state aid to counties paid pursuant to
14 sections 39-2501 to 39-2520, ~~47-119.01,~~ and 60-3,184 to 60-3,190,
15 ~~77-27,136,~~ and 77-3618, section 7 of this act, insurance premium
16 tax paid to counties, and reimbursements to counties from funds
17 appropriated pursuant to section 29-3933;

18 (d) For community colleges, state aid to community
19 colleges paid under the Community College Foundation and
20 Equalization Aid Act;

21 (e) For natural resources districts, state aid to natural
22 resources districts paid pursuant to section 77-27,136;

23 (f) For educational service units, state aid appropriated
24 under section 79-1241; and

25 (g) For local public health departments as defined in

1 section 71-1626, state aid as distributed under section 71-1628.08.

2 Sec. 2. Section 47-120, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 47-120 The county board or county board of corrections
5 serving pursuant to Chapter 23, article 28, shall provide proper
6 quarters and adequate equipment for the preparation and serving
7 of all meals furnished to all prisoners confined in the county
8 jail. The county sheriff or the county board of corrections shall
9 have full charge and control of such services and the county
10 board shall provide for all washing, fuel, lights, and clothing
11 for prisoners, ~~subject to reimbursement for state prisoners from~~
12 ~~the state pursuant to section 47-119.01,~~ and subject to the right
13 of the county to be paid by the city or federal government for
14 city or federal prisoners at actual cost to the county. Supplies
15 of every nature entering into the furnishing of meals, washing,
16 fuel, lights, and clothing to the prisoners confined in the county
17 jail shall be purchased and provided under the direction of the
18 county sheriff or the county board of corrections. Payment for
19 all purchases shall only be made by the county board on the
20 original invoices submitted by the sheriff or the county board of
21 corrections of goods, supplies, and services, setting forth (1)
22 that the invoice correctly describes the goods as to quality and
23 quantity, (2) that the same have been received and are in the
24 custody of the affiant, (3) that they have been or will be devoted
25 exclusively to the purposes authorized in this section, and (4)

1 that the price charged is reasonable and just. Nothing in this
2 section shall be construed to restrict the sheriff or the county
3 board of corrections in employing necessary personnel and from
4 otherwise carrying out the duties required in the operation of the
5 jail.

6 Sec. 3. Section 71-5326, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-5326 If a municipality, county, or natural resources
9 district fails to make any payment pursuant to a loan within sixty
10 days of the date due, such payment shall be deducted from the
11 amount of aid to municipalities, counties, or natural resources
12 district to which the municipality, county, or natural resources
13 district is entitled under sections 77-27,136 to 77-27,137.02 or
14 section 7 of this act. Such amount shall be paid directly to the
15 fund from which the loan was made.

16 Sec. 4. Section 77-27,136, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 77-27,136 The Legislature shall appropriate ~~seventeen~~
19 ~~million nine hundred thousand dollars of all~~ may appropriate funds
20 collected by a general sales tax and income tax for aid to
21 incorporated municipalities, ~~thirteen million five hundred thousand~~
22 ~~dollars for aid to counties, and seven hundred thousand dollars for~~
23 ~~aid to~~ counties, and natural resources districts.

24 Sec. 5. Section 77-27,137.01, Revised Statutes Cumulative
25 Supplement, 2008, is amended to read:

1 77-27,137.01 ~~(1)~~ The appropriation ~~provided for~~ made
2 pursuant to the authority in section 77-27,136 for aid to
3 incorporated municipalities shall be allocated by the Tax
4 Commissioner to the various incorporated municipalities. The Tax
5 Commissioner shall determine the amount to be distributed to the
6 incorporated municipalities and certify such amounts by voucher
7 to the Director of Administrative Services. Each amount shall be
8 distributed in seven as nearly as possible equal monthly payments
9 on the last business day of each month beginning in December.
10 The State Treasurer shall, on the business day preceding the last
11 business day of each month, notify the Director of Administrative
12 Services of the amount of funds available in the General Fund for
13 payment purposes. The Director of Administrative Services shall,
14 on the last business day of each month, draw warrants against
15 funds appropriated. Except as provided in subsection (2) of this
16 section, the Tax Commissioner shall compute the amount due the
17 incorporated municipalities on the ratio of the population of the
18 particular incorporated municipality to the total population of all
19 incorporated municipalities in the state as determined by the most
20 recent federal census figures certified by the Tax Commissioner as
21 provided in section 77-3,119, which amounts shall be placed in the
22 general fund of such municipalities.

23 ~~(2) For fiscal years 2003-04 through 2008-09, the~~
24 ~~allocation of state aid provided for in subsection (1) of this~~
25 ~~section shall be calculated based on the amount appropriated plus~~

1 ~~an additional five hundred twenty thousand dollars, and the amount~~
2 ~~of state aid calculated for a city of the primary class shall~~
3 ~~be reduced by the amount received by the city of the primary~~
4 ~~class under the Municipal Infrastructure Redevelopment Fund Act for~~
5 ~~fiscal years 2003-04 through 2008-09. Beginning with fiscal year~~
6 ~~2009-10, the amount of aid to municipalities appropriated shall be~~
7 ~~increased by five hundred twenty thousand dollars.~~

8 Sec. 6. Section 77-27,137.02, Revised Statutes Cumulative
9 Supplement, 2008, is amended to read:

10 77-27,137.02 The appropriation ~~provided for~~ made pursuant
11 to the authority in section 77-27,136 for aid to natural resources
12 districts shall be distributed to the various natural resources
13 districts of the state on the basis of the ratio of the
14 total amount of property taxes levied by the particular natural
15 resources district to the total amount of property taxes levied
16 by all natural resources districts within the state based on
17 amounts stated in the most recent certificate of taxes levied
18 statement and schedules submitted by each county to the Tax
19 Commissioner pursuant to section 77-1613.01. The Tax Commissioner
20 shall determine the amount to be distributed to the various
21 natural resources districts and certify such amounts by voucher
22 to the Director of Administrative Services. Each amount shall
23 be distributed in seven as nearly as possible equal monthly
24 payments between the fifth and twentieth day of each month
25 beginning December 1, 1982, and each December thereafter. The

1 State Treasurer shall, between the fifth and twentieth day of
2 each month, notify the Director of Administrative Services of
3 the amount of funds available in the General Fund for payment
4 purposes. The Director of Administrative Services shall, upon
5 receipt of such notification and vouchers, draw warrants against
6 funds appropriated. The proceeds of the payments received by
7 the various natural resources districts shall be credited to the
8 general fund of the district.

9 Sec. 7. The Legislature shall appropriate funds as aid to
10 counties in a amount equal to a percentage of the total real and
11 personal property valuation of all counties, such percent to be not
12 less than .0075 percent nor more than .0125 percent.

13 Of the appropriation, each county shall receive thirty
14 thousand dollars and the remaining amount shall be distributed
15 to each county on the basis of the ratio of the total real and
16 personal property valuation in the county to the total real and
17 personal property valuation in the state.

18 The Tax Commissioner shall determine the amount to be
19 distributed to the various counties under this section and certify
20 such amounts to the Director of Administrative Services on or
21 before July 1 of each year. Each amount shall be distributed in
22 nine as nearly as possible equal monthly payments on the last
23 business day of each month beginning in September.

24 Sec. 8. Section 77-27,139, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 77-27,139 Each political subdivision receiving funds as
2 provided by sections 77-27,136 to 77-27,137.02 and section 7 of
3 this act shall take into consideration the amount it will receive
4 under such sections during its fiscal year in determining its tax
5 levy for that fiscal year.

6 Sec. 9. Section 81-15,158, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 81-15,158 If a municipality or county fails to make any
9 payment pursuant to a loan within sixty days of the date due, such
10 payment shall be deducted from the amount of aid to municipalities
11 or counties to which the municipality or county is entitled under
12 sections 77-27,136 to 77-27,137.01 or section 7 of this act.
13 Such amount shall be paid directly to the Wastewater Treatment
14 Facilities Construction Loan Fund.

15 Sec. 10. Section 83-380, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 83-380 Within thirty days after June 30, 1971, and each
18 year thereafter the department shall certify to the Director of
19 Administrative Services all amounts not previously certified due to
20 each state institution from the several counties having patients
21 chargeable thereto. The Director of Administrative Services shall
22 thereupon notify the county clerk of each county of the amount each
23 county owes. The county board shall add to its next levy an amount
24 sufficient to raise the amount certified as due. The county shall
25 pay the amount certified into the state treasury on or before the

1 next June 1 following such certification.

2 From any county which fails to pay the total amount
3 certified as due annually by the next June 1 following
4 certification, there shall be withheld by the State Treasurer from
5 the next allocation to such county due under the provisions of
6 ~~section 77-27,137,~~ section 7 of this act an amount sufficient to
7 equal the amount unpaid from such county which amount shall be
8 deducted from the county's portion and not the municipalities'
9 under section 77-27,137.01. The State Treasurer shall credit the
10 amount withheld the same as if the county had paid it when due as
11 above provided.

12 Sec. 11. Section 83-4,133, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 83-4,133 If the governing body of the juvenile detention
15 facility or criminal detention facility fails to initiate
16 corrective action within six months after the receipt of such
17 inspection report, fails to correct the disclosed conditions,
18 or fails to close the criminal detention facility or juvenile
19 detention facility or the objectionable portion thereof, the
20 Jail Standards Board shall advise the Department of Correctional
21 Services that the criminal detention facility does not qualify for
22 reimbursement for state prisoners under section 47-119.01 and at
23 the same time or at a later date may petition the district court
24 within the judicial district in which such facility is located
25 to close the facility. Such petition shall include the inspection

1 report regarding such facility. The local governing body shall
2 then have thirty days to respond to such petition and shall serve
3 a copy of the response on the Jail Standards Board by certified
4 mail, return receipt requested. Thereafter, a hearing shall be held
5 on the petition before the district court, and an order shall be
6 rendered by such court which either:

- 7 (1) Dismisses the petition of the Jail Standards Board;
8 (2) Directs that corrective action be initiated in some
9 form by the local governing body of the facility in question; or
10 (3) Directs that the facility be closed. An appeal from
11 the decision of the district court may be taken to the Court of
12 Appeals.

13 ~~If the Jail Standards Board petitions to have the~~
14 ~~facility closed, the local governing body may challenge the no~~
15 ~~reimbursement for state prisoners determination in that action,~~
16 ~~and if there is no petition to close the facility, the local~~
17 ~~governing body may challenge the no reimbursement for state~~
18 ~~prisoners determination by filing an action in district court.~~

19 Sec. 12. This act becomes operative on July 1, 2009.

20 Sec. 13. Original sections 13-518, 47-120, 71-5326,
21 77-27,136, 77-27,139, 81-15,158, 83-380, and 83-4,133, Reissue
22 Revised Statutes of Nebraska, and sections 77-27,137.01 and
23 77-27,137.02, Revised Statutes Cumulative Supplement, 2008, are
24 repealed.

25 Sec. 14. The following sections are outright repealed:

LB 218

LB 218

1 Sections 47-119, 47-119.01, 47-121, 47-121.01, 77-27,137, and
2 77-3618, Reissue Revised Statutes of Nebraska.

3 Sec. 15. Since an emergency exists, this act takes effect
4 when passed and approved according to law.